

PLANNING COMMISSION MINUTES

January 8, 2003

CALL TO ORDER:

Chairman Bob Barnard called the meeting to order at 6:06 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

ROLL CALL:

Present were Chairman Bob Barnard, Planning Commissioners Gary Bliss, Eric Johansen, Dan Maks, Shannon Pogue, and Vlad Voytilla. Planning Commissioner Scott Winter was excused.

Principal Planner Hal Bergsma, Senior Planner Barbara Fryer, Associate Planner Suzanne Carey, Senior Planner Kevin Snyder, Senior Planner John Osterberg, Senior Planner Alan Whitworth, Associate Planner Tyler Ryerson, Transportation Planner Don Gustafson, Transportation Planner Randy Wooley, Assistant City Attorney Ted Naemura, and Recording Secretary Sandra Pearson represented staff.

A. SCENIC TREE WORK SESSION

The purpose of the Scenic Tree Project Work Session is to begin developing a list of possible regulatory and educational options for tree protection. The next step in the Goal 5 process for this project is to conduct the Environmental, Social, Economic, and Energy consequences of allowing, limiting or prohibiting conflicting uses in the resource. This work session will help staff and the Planning Commission identify the limit category for this analysis. This meeting is not to determine the final program nor is it to adopt any regulations.

Senior Planner Barbara Fryer introduced herself and Associate Planner Suzanne Carey and briefly described the Goal 5 process, including the Environmental, Social, Economic and Energy (ESEE) Consequences Analysis. She mentioned that she would discuss the previous Open House and Workshop Sessions, and referred to guidelines, incentives, and program development options. She described potential programs discussed at the September 12, 2001

1 Planning Commission Work Session, including Residence of the
2 Month, New Homeowner Seminars, Master Gardener Classes at
3 Saturday Market, Pushing Native Plants, and providing weekend
4 enforcement for tree removals.
5

6 Ms. Fryer discussed ideas from the September 12, 2001 Planning
7 Commission Work Session for different types of tree resources,
8 specifically Neighborhood Groves, observing that education appeared
9 to be the most important, adding that those who responded also tended
10 to encourage native replacement. She pointed out that a Public
11 Hearing would most likely be necessary for redevelopment, but not
12 homeowners, adding that tree removal would involve a Public Hearing
13 if a significant impact upon other trees that would result in a hazard
14 or a loss, such as wind throw, or changes to the neighborhood or a
15 threshold percentage of the canopy cover was involved.
16

17 Ms. Fryer discussed Groves, noting that the Planning Commission
18 comments were in favor of preservation of 20% to 25%, and perhaps
19 modifying the lot size to a minimum of 3,750 square feet for R-10 to R-
20 4 when trees are protected. She mentioned the possibility of density
21 transfer and allowing the tree preservation area to be inclusive of the
22 wetland, as well as qualifying for either the modification for lot size or
23 the inclusion of the wetland, noting that the lot must be a separate lot,
24 adding that incentive systems had also been an issue.
25

26 Ms. Fryer discussed Planning Commission comments about Individual
27 Trees, noting that the public had been concern with the protection of
28 the drip line or providing for a certified arborist before, during, and
29 following construction, and pointed out that this would not necessarily
30 involve a public process, such as a Public Hearing.
31

32 Referring to the April 13, 2002 Open House, Ms. Fryer noted that a
33 number of different measures, both regulatory and non-regulatory, had
34 been proposed. She mentioned that many people had expressed
35 interest in the proposed Saturday Master Gardener classes,
36 informational brochures, City Arborist assistance in diagnosing tree
37 problems, and web information, which are all non-regulatory issues.
38 She pointed out that removal of a hazardous tree without a permit had
39 been a high priority, adding that many individuals had indicated that
40 damage to a designated tree by excessive pruning should be prohibited,
41 while preservation of 20% of the tree canopy should be required, if
42 possible, adding that if this is not possible, replacement with
43 appropriate trees or an in lieu payment should be mandatory for the
44 Neighborhood Grove Category.

1 Referring to Grove resources, Ms. Fryer noted that the non-regulatory
2 informational brochures had been considered appropriate, adding that
3 most individuals had been in support of the removal of a hazardous
4 tree without a permit. She noted that the majority of these individuals
5 had also been in favor of limiting construction activity within the drip
6 line on subject property, limiting construction activity within the drip
7 line on abutting property, prohibiting construction activity within the
8 drip line in general, prohibiting damage to designated trees by
9 excessive pruning, and preservation of 20% of a tree canopy, or if this
10 is not possible, appropriate replacement or an in lieu fee.

11
12 Ms. Fryer discussed Corridors, observing that the typical non-
13 regulatory methods, such as Saturday Master Gardener classes,
14 informational brochures, and City Arborist and web information scored
15 highest, while removal of a hazardous tree without a permit also
16 scored very high, and that limiting construction activity within the
17 dripline on the subject property and the abutting property, prohibiting
18 construction activity within the root zone, prohibiting excessive
19 pruning, and requiring tree replacement all scored fairly high.

20
21 With regard to Individual Trees, Ms. Fryer noted that the non-
22 regulatory aspects of the program were the most popular, pointing out
23 that staff added several items, including a grant program to help offset
24 the costs of pruning large trees, as well as recognition of certain trees
25 in some way, such as a plaque, a certificate, or a newspaper article.
26 She mentioned that the removal of a hazardous tree without a permit
27 is the only regulatory item that scored high within this category.

28
29 Ms. Fryer discussed potential incentive programs, and mentioned a
30 very unique website offered by the International Society of
31 Arboriculture (ISA), observing that they list guidelines for the
32 development and evaluation of tree ordinances. She pointed out that
33 this website recommends seven key areas to the development of a tree
34 ordinance, as follows:

- 35
36 1. Goals
37 2. Responsibility,
38 3. Basic Performance Standards;
39 4. Flexibility;
40 5. Enforcement;
41 6. Comprehensive Management Strategy, and
42 7. Community Support.
43

1 Referring to the Comprehensive Management Strategy, Ms. Fryer
2 noted that this should contain certain components, including public
3 education, assistance and incentives, voluntary planting, mitigation
4 guidelines, planning regulations and guidelines including general and
5 specific plans and ordinances.

6
7 Ms. Fryer discussed graphics related to mitigation measures and
8 locations, observing that options for mitigation measures would
9 basically protect existing trees or shrubs or plant new trees and/or
10 woodland reforestation, either on site or off site.

11
12 Ms. Fryer mentioned that the nine goals listed as rationale for the
13 protection of tree resources are for the following purposes:

- 14
15 1. Establishing and maintaining maximum tree coverage;
16 2. Maintaining trees in a healthy condition through good cultural
17 practices; establishing and maintaining an optimal level of age
18 and species diversity;
19 3. Promoting conservation of tree resources;
20 4. Selecting, situating and maintaining street trees appropriately
21 to maximize benefits and minimize hazard nuisance, damage
22 and maintenance costs;
23 5. Centralizing tree management provided by an individual with
24 the necessary expertise;
25 6. Promoting efficient and cost effective management of the urban
26 forest;
27 7. Fostering community support for the local urban forestry
28 program;
29 8. Encouraging good tree management on privately owned
30 properties; and
31 9. Facilitating the resolution of tree related conflicts between
32 citizens.

33
34 Emphasizing that not all nine goals would fit every jurisdiction, Ms.
35 Fryer pointed out that there may be additional goals that are
36 appropriate for a particular jurisdiction but not for others.

37
38 Ms. Fryer discussed a summary of incentive programs developed for
39 Metro by *Winterbrook Planning* that had been provided within the
40 packet, observing that this summary had included 18 tools within five
41 separate categories, as follows:

- 42
43 1. Public acquisition and public/private partnerships;
44 2. Regulatory reform;

3. Private management;
4. Education Assistance; and
5. Funding tools.

Ms. Fryer observed that the eight tools on the slide had been the most highly rated approaches with regard to effectiveness, adding that these had been rated based upon existing statutory authority, level of protection, administrative ease, flexibility and options, acceptance by landowners, ease of funding, fairness and equity, political feasibility, and cost effectiveness.

Commissioner Maks pointed out that SDCs are not within legislative authority.

Ms. Fryer noted that this depends upon how the SDC is framed, adding that this can be done for parks and open space. She pointed out that there is a number of various incentive programs, some of which would work for different categories better than for others. She discussed comments provided by the Development Liaison Committee (DLC), observing that they basically had the summary of regulations by other jurisdictions, as well as the recently implemented Development Code. She mentioned that they had submitted quite a few comments, adding that they had indicated that the DBH tree replacement program in the current Development Code is not feasible. She pointed out that the Tualatin Hills Parks & Recreation District (THPRD) requires steep fees for ongoing maintenance, making this option infeasible.

Commissioner Maks referred to cases where it is not possible to replace the trees on a caliper for caliper basis, and questioned whether staff could determine whether a certain percentage should be met.

Referring to a comment received from the DLC, Principal Planner Hal Bergsma noted that because very few actual Groves are left within the City of Beaverton, the real issue at this time involves Neighborhood Groves.

Ms. Fryer mentioned that the DLC had suggested different standards with regard to different zoning classifications, adding that they had recommended eliminating the requirements for lots that are less than 5,000 square feet in size. She pointed out that different standards for different zoning designations is a practice that is recommended by the State of Maryland, adding that they have a classification with regard to the number of trees per square feet (density) according to zoning

1 classification. She discussed the potential preparation of a Hierarchy
2 of Preservation, noting that several options are available.

3

4 Ms Fryer noted that she totally disagrees with a recommendation to
5 count street trees as mitigation, expressing her opinion that street
6 trees are a different type of tree. She pointed out that the canopies are
7 not large, adding that these are not typically the type of tree that is
8 actually going to replace a tree that has been removed for development
9 purposes.

10

11 Referring to her Memorandum dated November 1, 2002, Associate
12 Planner Suzanne Carey mentioned that this document summarizes
13 tree regulations by jurisdictions in order to provide some information
14 with regard to what is occurring throughout the area and the Scenic
15 Tree Program Draft Options for program development.

16

17 Ms. Carey discussed her ideas for Neighborhood Groves, as follows:

18

- 19 1A. City develops and distributes neighborhood educational
20 publications and seminars on tree care.
21 1B. Applicant sends letter to inform adjacent property owners
22 of tree cutting; sends copy to city.
23 1C. Applicant gathers signatures from surrounding property
24 owners and NAC (notification vs. support).
25 1D. Cutting allowed with permit; no permit necessity with
26 city arborist's determination of hazard (permit vs.
27 review).
28 1E. Remove up to two trees per calendar year per parcel with
29 signatures of 75% adjacent property owners.
30 1F. Remove two trees per calendar year per parcel; replace
31 with 2" caliper DBH deciduous or six foot conifer; 1:1.
32 1G. Remove one tree per calendar year per parcel; replace
33 with two-inch caliper DBH deciduous or six foot conifer;
34 2:1.

35

36 Ms. Carey reviewed considerations with regard to Neighborhood
37 Groves, as follows:

38

- 39 • Costs to property owners/city.
40 • Thresholds for number of trees to be removed at a given time.
41 • Replacement/mitigation.
42 • Enforcement.
43 • Need to define adjacent property owners.
44 • Count street trees as mitigation totals?

1 Ms. Carey requested ideas and feedback with regard to Neighborhood
2 Groves from the Planning Commissioners.

3

4 Commissioner Maks advised Ms. Carey that while he personally
5 prefers to impose very rigorous protection, he would also like to raise
6 the level of significance. He mentioned that he likes all of the ideas
7 outlined with regard to Neighborhood Groves, with the exception of 1A.

8

9 Observing that he agrees with Commissioner Maks, Commissioner
10 Voytilla expressed concern with a potential cost to property owners.

11

12 Ms. Carey informed Commissioner Voytilla that this information is not
13 yet available, noting that she had merely provided these options for
14 consideration at this time.

15

16 Observing that this could be very difficult to implement, Commissioner
17 Voytilla pointed out that he is also concerned with enforcement, adding
18 that this issue needs to be addressed by staff fairly soon.

19

20 Referring to compliance issues, Commissioner Johansen questioned
21 how staff could encourage individuals to actually go through the
22 permit process as opposed to addressing issues entirely on their own.
23 He pointed out that the greater the requirements, the less likely an
24 individual is to become involved in the permit process.

25

26 Noting that he had contacted the City Arborist in the past with regard
27 to an issue in his neighborhood, Chairman Barnard requested
28 clarification on the City Arborist's turnaround time for responding to
29 calls.

30

31 Commissioner Johansen suggested that it might be a good idea to
32 provide information with regard to regulations to those firms that
33 provide services related to the removal and maintenance of trees.

34

35 Ms. Fryer pointed out that some jurisdictions actually provide a
36 certification program for arborists and tree care specialists, adding
37 that they are basically provided with a set of regulations and a
38 contract indicating that they intend to comply with these regulations.

39

40 Noting that this sounds like a good idea, Commissioner Voytilla
41 explained why this is not always feasible in an area where so many
42 jurisdictions are involved.

43

1 Chairman Barnard mentioned that a single tree could potentially
2 provide a significant scenic resource to a very large area, adding that it
3 could be difficult to provide notification to all property owners
4 involved.

5

6 Commissioner Maks questioned whether staff has created a specific
7 definition for a tree.

8

9 Ms. Fryer advised Commissioner Maks that although she could not
10 locate it immediately in the Development Code, for the purposes of the
11 Tree Inventory, a tree is defined as having a DBH of at least six-
12 inches.

13

14 Ms. Carey discussed her ideas for Groves, as follows:

15

16 2A. Remove up to two trees per year on parcels with one
17 single-dwelling structure and no subdivision application
18 in process.

19 2B. Preserve a minimum of 25% (DBH vs. number) of existing
20 trees through conservation easement or tract; provide
21 development incentives for preserving more.

22 2C. Preserve 25% in tract; plant two new trees per new single-
23 family lot (vary number required based on lot size/
24 zoning).

25 2D. Preserve 40% of existing trees; plant two new trees per
26 new single-family lot (native species; vary number
27 required based on lot size/zoning).

28 2E. Preserve 60% of existing on slopes (x%), wetlands, stream
29 corridors, wildlife areas, and areas subject to wind throw;
30 transfer development potential on lot/development site.

31 2F. Preserve 95% on slopes (x%), wetlands, stream corridors,
32 wildlife areas, and areas subject to wind throw; replace
33 (1:1) all other trees removed based on total number/
34 species.

35

36 Ms. Carey highlighted considerations with regard to Groves, as follows:

37

- 38 • Relationship to Neighborhood Grove.
- 39 • Different program for land division?
- 40 • Size/health/type of tree.
- 41 • Replacement/mitigation/fee in lieu.
- 42 • Protect number of trees, crown, or area of root zone.
- 43 • Enforcement.

- Provide hierarchy of preservation areas; clusters, wetlands/ streams, adjacent to public open space, and slopes over 25%.
- Count street trees as mitigation totals?

Observing that he is in favor of 2B, Commissioner Maks noted that he has not yet determined whether he prefers DBH, number of trees, or a combination of both. He expressed his opinion that a Hierarchy of Preservation Areas should be provided, and requested clarification with regard to how this would be accomplished within the guidelines based upon aesthetics.

Ms. Carey discussed her ideas for Corridors, as follows:

- 3A. Send notice to all property owners with frontage on the corridor.
- 3B. Get 75% signatures of property owners within the corridor.
- 3C. Notify property owners with frontage on corridor and replace with same species; minimum two-inch caliper DBH; 1:1.
- 3D. Notify property owners with frontage on corridor; replace 6-12" caliper = 1 new, 13-20" caliper = 2 new, 21" caliper and over = 3 new.
- 3E. Rely on the City's street tree regulations cited on the first page of handouts.

Ms. Carey described considerations with regard to Corridors, as follows:

- Costs to property owners/city.
- Thresholds for number of trees to be removed at a given time.
- Replacement mitigation.
- Enforcement.

Chairman Barnard asked about the minimum replacement and size.

Ms. Fryer responded that the minimum size would be a two-inch caliper.

Commissioner Maks discussed the Corridor section, indicating that 3A and 3B would not be useful for sites where the entire corridor is under one ownership. He suggested that trees should be replaced with like kind, and expressed his opinion that staff needs to work on this section more.

1 Observing that 3C would be very onerous for the Beaverton School
2 District, Commissioner Bliss noted that replacement based upon DBH
3 should be deleted.

4
5 Ms. Fryer clarified that the intent was to replace one tree for one tree
6 with a minimum tree size of two-inch caliper.

7
8 Commissioner Bliss agreed that replacing one tree removed with one
9 new tree is fine.

10
11 Ms. Carey discussed her ideas for Individual Trees, as follows:

- 12
13 4A. Remove when City Arborist determines the tree is a
14 hazard; property owner pays City Arborist fee.
15 4B. Remove when City Arborist determines the tree is a
16 hazard; City pays for senior citizens/low-income.
17 Requires replacement with like species; 1:1.
18 4C. Remove one tree per parcel per calendar year; replace
19 with like-species; 1:1 replacement.
20 4D. Remove one tree per parcel per calendar year; replace
21 with 6-12" caliper = 1 new, 13-20" caliper = 2 new, 21"
22 caliper and over = 3 new.

23
24 Ms. Carey described considerations with regard to Individual Trees, as
25 follows:

- 26
27 • Costs to property owners/city.
28 • Thresholds for number of trees to be removed at a given time.
29 • Replacement/mitigation.
30 • Enforcement;
31 • Tracking may be difficult when number of trees are linked to
32 calendar year.

33
34 Commissioner Maks stated that while he approves of 4-A and 4-B, he
35 still has concerns with thresholds and what is being protected.

36
37 Commissioner Voytilla mentioned the windstorm of 1996, observing
38 that it was not possible to count the number of hazardous trees that
39 were affected, and questioned the feasibility of imposing a fee for the
40 City Arborist to examine a tree.

41
42 Ms. Fryer advised Commissioner Voytilla that there could potentially
43 be some exceptions with regard to this fee.
44

1 Expressing his opinion that this involves an emergency situation,
2 Commissioner Voytilla pointed out that it would be necessary to allow
3 exceptions to this fee, adding that he is opposed to this fee, which
4 would basically add one more element that would potentially cause
5 this program to fail.

6
7 Ms. Fryer pointed out that there is currently a fee associated with the
8 removal of any tree that is listed as a Significant Tree on the Tree
9 Inventory, adding that this has been very effective.

10
11 Commissioner Voytilla expressed his opinion that many individuals
12 would resist this type of program and cut their trees on their own.

13
14 Chairman Barnard noted that this discussion involves two
15 significantly separate fees, one of which involves the removal of a
16 Significant Tree, and another that is associated with the analysis of a
17 tree by the City Arborist.

18
19 Ms. Fryer clarified that the fee would be imposed upon the issuance of
20 a permit to remove the tree, rather than for the analysis of the tree.

21
22 Chairman Barnard commented that there should be some type of time
23 frame with regard to how soon the City Arborist would respond and a
24 request resolved.

25
26 Ms. Fryer explained that this would involve budget issues, specifically
27 with regard to employee time.

28
29 Commissioner Voytilla noted that a great deal of public testimony has
30 already been received, adding that a great deal of this concern involved
31 costs to the property owners. He suggested the possibility of testing
32 those waters first with the current resources that are available, and
33 questioned how many arborists are currently on staff.

34
35 Ms. Fryer informed Commissioner Voytilla that there are currently
36 four certified arborists on staff, adding that although they have other
37 responsibilities, they should have the ability to respond to these calls.
38 She discussed the potential impact upon various departments, adding
39 that depending upon whether there is adequate support from both the
40 community and the Planning Commission to approach the City
41 Council, the City Council would have the option of whether to act and
42 provide funding or remand the issue back to the Planning Commission
43 for an alternative.

44

1 Mr. Bergsma pointed out that because a portion of the ESSE process
2 involves the economic impact, impacts on the City budget would be
3 determined.

4
5 7:09 p.m. -- Ms. Fryer and Ms. Carey left.

6
7 7:10 p.m. to 7:16 p.m. – break.

8
9 The meeting was called to order by Chairman Barnard, who presented
10 the format for the meeting.

11
12 **VISITORS:**

13
14 Chairman Barnard asked if there were any visitors in the audience
15 wishing to address the Commission on any non-agenda issue or item.
16 There were none.

17
18 **STAFF COMMUNICATION:**

19
20 Senior Planner Kevin Snyder discussed a training opportunity
21 available to members of the Planning Commission, adding that this
22 the Oregon Chapter of the American Planning Association has
23 scheduled this session from 8:30 a.m. to 4:00 p.m. at City Hall in
24 Fairview, Oregon. He pointed out that this session will address legal
25 issues such as proper hearing procedure, adequate findings and
26 conditions of approval, including ethical issues, noting that this session
27 will also include a summary of the Oregon Planning System, roles of
28 the various participants in planning, effective meetings, and the open
29 meetings law, as well as a review of and opportunity to learn more
30 about Fairview Village, which is one of America's best known and
31 acclaimed neo-traditional communities. He directed anyone interested
32 in attending this training to notify staff, specifically Robyn Lampa,
33 who would make the necessary arrangements.

34
35 Mr. Snyder referred to an article from a recent edition of the *APA*
36 *Planning Magazine* with regard to planning issues, adding that an
37 explanatory Memorandum from Development Services Manager
38 Steven Sparks is included.

39
40 **OLD BUSINESS:**

41
42 Chairman Barnard opened the Public Hearing and read the format for
43 Public Hearings. There were no disqualifications of the Planning
44 Commission members. No one in the audience challenged the right of

any Commissioner to hear any of the agenda items, to participate in the hearing or requested that the hearing be postponed to a later date. He asked if there were any ex parte contact, conflict of interest or disqualifications in any of the hearings on the agenda. There was no response.

CONTINUANCES:

A. TA 2002-0006 - PRECISION HOLDINGS, LLP CHAPTER 20 TEXT AMENDMENTS

(Continued from December 11, 2002)

Text amendment application request by Precision Holdings, LLP, 14145 SW Tualatin Valley Highway, Beaverton, OR 97075 for the following proposed amendments to the Beaverton Development Code: 1) amend Section 20.20.20.2.B (Conditional Uses - Station Community-High Density Residential) of the Beaverton Development Code to add a new Conditional Use – 12. Storage yard for fully operable vehicles for sale, lease or rent, within one-quarter mile of a Corridor; and 2) amend Section 20.20.20.2.C (Prohibited Uses – Station Community-High Density Residential) of the Beaverton Development Code to modify Section 20.20.20.2.C.23 to read Storage yards, except as allowed under Section 20.20.20.2.B.12

Mr. Snyder presented the Staff Report and described this Type 4 application for a proposed Text Amendment, noting that while this item was originally scheduled for Public Hearing on December 11, 2002, it had been continued in order to accommodate a request from the applicant. He summarized staff findings, observing that permanent conditional use authorization for vehicle storage yards, as requested by the applicant, is not consistent with the approval criteria as outlined in Section 40.85, adding that staff has determined that a time constrained transitional conditional use authorization, as proposed by staff, is consistent with this approval criteria.

Mr. Snyder highlighted some key issues with regard to this proposal and staff findings, noting that Section 40.85.15.1.c requires that evidence of compliance with all approval criteria be demonstrated in order for the Planning Commission for a finding for approval for a recommendation to the City Council. He clarified that the legislative intent of the Station Community – High Density Residential zoning district, as described in Section 20.20.20 of the Development Code, is based upon the City of Beaverton's Comprehensive Plan, which is reflective of the Metro 2040 Growth Concept, which is basically a long-term regional vision. He explained that the legislative intent of the

1 this zoning district is to promote intensive and compact land uses,
2 adding that the permitted and conditional uses within Section 20.20.20
3 are intended to promote or support the legislative intent of both the
4 Comprehensive Plan and the Metro 2040 Growth Concept. He pointed
5 out that existing land uses within this zoning designation that do not
6 comply with the district requirements are authorized to remain and
7 operate within this zoning district, adding that they are considered
8 non-conforming uses and therefore subject to Chapter 30 of the
9 Development Code (Non-Conforming Uses).

10
11 Mr. Snyder stated that the staff report findings indicate that
12 permanent conditional use authorization is not consistent with all
13 approval criteria, and in particular, approval criteria 3, 4, and 5.
14 Observing that staff recognizes the existence of land use patterns that
15 are occurring in and around this zoning district that include needs and
16 requirements that might not directly correspond to the long-term
17 vision of this zoning district, adding that based upon this
18 determination, staff has provided an alternative to the applicant's
19 request that does comply with all approval criteria. He emphasized
20 that staff is attempting to balance the need of existing land use
21 patterns against the long-term vision with regard to land use patterns
22 within this zoning district. He explained that in order to achieve this
23 balance, staff is proposing what he referred to as a time constrained
24 transitional conditional use authorizing, adding that this concept is
25 intended to impose a limitation upon the duration of conditional use
26 authorization and is somewhat reflective of the nature of the use
27 requested by the applicant, specifically Vehicle Storage Yards. He
28 noted that staff has made a finding within the context of the Staff
29 Report recommendation that this type of land use is less land intensive
30 and does enhance the potential redevelopment opportunity for property
31 that is used for this in the future, through the lack of structures and
32 buildings, as well as the minimal amount of improvements that
33 normally occur with this type of use.

34
35 Mr. Snyder pointed out that staff has identified a reasonable time
36 authorization for the time constrained transitional conditional use
37 authorization of ten years, adding that this is a defined operation time
38 frame for existing land uses, and attempts to provide certainty and
39 reasonableness in order to recognize the business needs of potential
40 users, while also maintaining the City of Beaverton's ability to respond
41 to long term changes to land use patterns. He noted for the record that
42 the current conditional use authorization as defined by the
43 Development Code is only two years, although the Development Code
44 does allow an extension opportunity for a maximum of two additional

1 years, to be authorized by the Planning Director, adding that this
2 indicates that under a normal scenario, the maximum amount of time
3 that a conditional use authorization could occur is four years. He
4 mentioned that due to the legislative intent of this zoning designation,
5 as compared against the needs and requirements of existing land uses
6 in and around the zoning district, staff believes that ten years
7 approaches a state of certainty and reasonableness that can be
8 effectively managed by staff for compliance purposes while addressing
9 the long-term vision for this zoning district.

10
11 Mr. Snyder entered into the record two Memorandums, as follows:

- 12
13 • Addendum Memorandum to Staff Report for TA 2002-0006
14 (Precision Holdings, LLP Chapter 20 Text Amendment) re:
15 Written Comment Letter from Joe and Joan Baldino, dated
16 January 8, 2003; and
- 17
18 • Proposed Additional Condition of Approval for TA 2002-0006
19 (Precision Holdings, LLP Chapter 20 Text Amendment, dated
20 January 8, 2003.

21
22 observing that additional copies would be available at the back table.

23
24 Mr. Snyder discussed the first Memorandum, noting that the Baldino
25 property is represented on the attached vicinity map (Exhibit "M").
26 Observing that this property is located next to an existing parking lot
27 for a Hyundai dealership, he noted that the owner of that property had
28 expressed interest in the potential purchase of their property prior to a
29 zone change resulting in a high density residential zoning designation.
30 He explained that the Baldinos had indicated that they would prefer
31 that the house located across the street from their property not be
32 zoned for a conditional use unless their own property is similarly
33 zoned, because they do not believe that this would be in their interests
34 to be located across the street from a parking lot.

35
36 Referring to a conversation with Mrs. Baldino on January 7, 2003, Mr.
37 Snyder noted that he had advised her that the proposal concerns a
38 Text Amendment to the existing language within Section 20.20.20,
39 emphasizing that this amendment is not property specific, meaning
40 that it would affect her property, as well as any other properties within
41 this zoning designation. He explained that rather than applying a
42 conditional use zoning designation, the City of Beaverton applies a
43 zoning designation such as Station Community – High Density
44 Residential, adding that land uses that are permitted are allowed

1 conditionally are identified within that land use. He noted for the
2 record that the property identified by Ms. Baldino as a parking lot
3 abutting her property is located immediately south of her property and
4 is zoned General Commercial. He recommended that the Planning
5 Commission consider the written comment letter and accompanying
6 staff response in its deliberation of this proposal and that staff
7 continues to recommend the conditional approval of this application.

8
9 Mr. Snyder discussed the second Memorandum, observing that staff is
10 recommending an additional Condition of Approval, as follows:

- 11
12 d. Direct staff to amend Section 20.20.20.2.D to add a new use
13 restriction identified as 20.20.20.2.D.2.1 that would read,
14 "Development of storage yards for fully operable vehicles for
15 sale, lease, or rental that are located within one-quarter mile
16 of a Corridor shall only be allowed to occur on the portion of
17 lots containing existing paved surfaces."

18
19 Mr. Snyder noted that staff recommends that the Planning
20 Commission recommend conditional approval of this application, as
21 specified within the Staff Report, as amended to include the
22 previously-stated additional Condition of Approval. Concluding, he
23 reminded both the Planning Commission and the applicant that
24 pursuant to Section 10.60 of the Development Code, the burden of
25 proof to demonstrate compliance with approval criteria is ultimately
26 the responsibility of the applicant, and offered to respond to questions.

27
28 Observing that an existing land use is "grandfathered in" and the use
29 would be permitted to continue, subject to the provisions of Chapter
30 30, Commissioner Maks noted that while he has never been what he
31 referred to as a champion of the goals and planning demonstrated by
32 Metro, the adoption of this language involved many compromises with
33 regard to Transit Oriented Districts and high-density areas. He
34 requested clarification with regard to the purpose section of this
35 particular zoning designation, which he considers conflicting.

36
37 Mr. Snyder explained that there is an obligation to consider the
38 applicant's request with regard to applicable approval criteria, noting
39 that staff recognizes that the legislative intent of this zoning designa-
40 tion is fairly clear, adding that it is intended to promote intensive and
41 compact land uses and to create a high-density pedestrian-oriented
42 neighborhood in proximity to light rail stations, based upon a long-
43 term vision for the region, specifically the Metro 2040 Growth Concept.
44 He noted that because staff also recognizes that land uses do not

1 always move at the pace of what is envisioned, in recognizing the
2 existing needs of land uses in and abutting this zoning district, it had
3 been determined that on a temporary or transitional basis, this type of
4 land use could be authorized conditionally, with a limited duration
5 authorization (ten years) in order to support the existing land uses in
6 their current operation. He pointed out that the long-term conversion
7 opportunity for these lands would be maintained by limiting the
8 conditional use authorization to ten years and requiring that in order
9 to obtain any additional extension of time, an applicant would have to
10 reappear before the appropriate decision-making authority. He
11 explained that this would be reviewed under the criteria for
12 conditional use in order to determine whether the criterion is met.

13
14 Emphasizing that ten years is a long time, Commissioner Maks noted
15 that this is not only contradictory with regard to what had been
16 originally planned with regard to the purpose statement for this
17 specific zoning designation., it is actually what he considers a step in
18 the opposite direction.

19
20 Observing that this is a reasonable concern, Mr. Snyder pointed out
21 that staff's perspective is that they would be unable to support this
22 conditional use authorization on a permanent basis.

23
24 Commissioner Maks pointed out that most of the permanent and
25 conditional uses within this zoning district were initiated in order to
26 support the high-density residential area.

27
28 Mr. Snyder agreed that the legislative intent had been to encourage
29 uses that support or promote more intensive compact urban land uses
30 within this designation.

31
32 Reiterating that ten years is a long time, Commissioner Maks
33 emphasized that once something is done, it is difficult to undo, adding
34 that this proposal is moving backwards, rather than towards
35 conformance. He pointed out that anyone living in the fourth or fifth
36 story of a high-density unit would most likely prefer to look out the
37 window at what could be a transitional use, in an enclosed building,
38 with a roof garden on top, rather than a parking lot.

39
40 Mr. Snyder clarified that a specific use restriction exists at this time
41 that prohibits outdoor vehicle storage, and encouraged members of the
42 Planning Commission to remember that approval criteria reflects what
43 is within the Development Code, rather than personal opinion.

1 Referring to a letter from Metro, dated December 2, 2002, which
2 supports staff's recommendation for denial of the applicant's proposal,
3 Commissioner Moks requested clarification with how Metro feels with
4 regard to staff's proposal for the transitional use.
5

6 Mr. Snyder advised Commissioner Moks that although staff had
7 provided a copy of the Staff Report with this proposal, no response had
8 been received from Metro.
9

10 Commissioner Moks mentioned that he would like to have the
11 opportunity to review Metro's response to this proposal.
12

13 Mr. Snyder pointed out that Metro has not responded, although they
14 have had approximately one month to review the information.
15

16 Expressing his agreement with the concerns described by
17 Commissioner Moks, Commissioner Bliss requested clarification with
18 regard to why this area had been designated as Station Community –
19 High Density Residential. He pointed out that there is already a
20 proliferation of parking lots in this area, noting that they are utilized
21 for storage of various types, adding that this use is contrary to what
22 has been intended for this zoning district and that he does not agree
23 with the purpose.
24

25 Mr. Snyder explained that the current procedure involves an initial
26 two-year authorization with an opportunity for a two-year extension.
27

28 Commissioner Bliss expressed his concern with expending a great deal
29 of time, effort, and money going in the wrong direction.
30

31 Referring to page 8 of the Staff Report, Commissioner Johansen
32 expressed his opinion that 17 telephone calls is an excessive amount to
33 receive with regard to this proposed Text Amendment.
34

35 Observing that the majority of these telephone calls had been merely
36 requests for clarification, Mr. Snyder noted that these involved those
37 property owners within 500 feet of the proposed development. He
38 explained that staff had attempted to provide as much information as
39 possible, as well as alert other individuals with a potential interest in
40 this issue either now or at some future point, adding that with the
41 exception of two property owners, all of these property owners were
42 only within the notification range, rather than the Station Community
43 – High Residential zoning designation.
44

1 Commissioner Johansen referred to a communication from Don Delzer,
2 dated January 7, 2003, requesting that the proposed Text Amendment
3 change be rejected.

4
5 On question, Mr. Snyder advised Chairman Barnard that the
6 suggested change with regard to paved lots is an attempt to curb the
7 creation of new lots.

8
9 Commissioner Pogue questioned how the City of Beaverton would
10 execute this policy if approved.

11
12 Mr. Snyder explained that the decision-making authority would start
13 with the understanding that any conditional use authorization that
14 had been granted would include a time limitation with regard to this
15 particular use within this specific zoning district. He pointed out that
16 this would be slightly different from a standard Conditional Use
17 Permit, in which the provisions of the Development Code would
18 provide for a two-year authorization. He explained out that there
19 would be a need, as pointed out by Commissioner Barnard, for some
20 type of sense of what is available prior to that, which would necessitate
21 some gathering of information to be provided to the decision-making
22 body, if necessary, with regard to the property involved in a proposal.
23 He pointed out that any tracking would be incumbent upon the
24 Planning Services Division to work with the Code Enforcement
25 Division in order to maintain adequate tracking, adding that this
26 might involve some type of Tickler File.

27
28 Commissioner Pogue requested specific clarification with regard to
29 how staff would address a situation in which an applicant is no longer
30 within compliance.

31
32 Mr. Snyder noted that this issue would be partially addressed through
33 the conditional use process, emphasizing that it is necessary to
34 demonstrate appropriate conformity with regard to the Development
35 Code and Comprehensive Plan. He reminded members of the Planning
36 Commission that any policy is subject to change, adding that it is
37 possible that at some future point this policy would no longer be
38 appropriate.

39
40 On question, Mr. Snyder advised Commissioner Voytilla that it is
41 anticipated that approximately 50 properties would be affected, and
42 that in addition to the applicant and applicant's representative, two
43 other potentially affected property owners had approached him directly

1 with regard to this issue, adding that he had received telephone calls
2 from two other individuals.

3
4 Commissioner Voytilla expressed concern with the potential for
5 deviating from the original intent of this zoning district.

6
7 Referring to certain property along SW Tualatin Valley Highway, Mr.
8 Snyder mentioned a number of General Commercial zoned properties
9 that abut up against the highway, adding that many of these are
10 utilized for automobile dealership purposes, including vehicle storage.
11 He pointed out that some of these businesses might be interested in an
12 opportunity to obtain additional storage based upon this potential
13 conditional use authorization.

14
15 Commissioner Maks pointed out that previous actions of the Planning
16 Commission had emphasized the necessity of respecting what is on the
17 ground while also attempting to consider the vision with regard to the
18 public investment in the light rail. He noted that it had been his
19 understanding that car dealerships were permitted provided that they
20 were enclosed.

21
22 Observing that storage yards are prohibited in this zoning district
23 under Section 20.20.20.2.C, Mr. Snyder noted that under the use
24 restriction, vehicle sales, lease, or rent are subject to restrictions c and
25 g. He pointed out that while c addresses a size restriction, g involves
26 restrictions with regard to activities, adding that the activity must be
27 conducted within an enclosed structure, with no accessory open air
28 sales, display, or storage.

29
30 **APPLICANT:**

31
32 **DAVID SMITH**, Attorney representing the applicant, *Precision*
33 *Holdings, LLC*, provided background information with regard to the
34 proposal. He discussed the series of tax lots stacked up north of SW
35 Tualatin Valley Highway, most of which is commercially zoned. He
36 mentioned that the commercial Station Community – High Density
37 Residential zoning boundary travels right down the middle of SW
38 Carousel Court, adding that this street is approximately one block
39 north of SW Tualatin Valley Highway. He explained that immediately
40 north of SW Carousel Court is the last lot owned by *Precision*
41 *Holdings*, adding that this involves a graveled parcel, which provides
42 for the parking of new vehicle inventory by *Russ Humbertson*, *Saturn*
43 *of Beaverton*, and *Hertzog Meier*. Observing that this use has been
44 ongoing for some time, he pointed out that this had not been ongoing

1 prior to the City of Beaverton's adoption of the Station Community
2 zoning in conjunction with the west side light rail. He explained that
3 the reason a non-conforming use application is not feasible is because
4 before this zoning was adopted, *Loy Clark Pipeline*, who had parked
5 their trucks and other heavy equipment on this lot, had owned the pro-
6 perty. He noted out that because this use had been significantly differ-
7 ent from the current use by automobile dealerships, staff had basically
8 indicated that this change would not be allowed through an application
9 for non-conforming use, emphasizing that it had been his opinion that
10 this would be a feasible option. Noting that several options had been
11 explored, he explained that the best advice they had been able to
12 obtain from staff had been to pursue a Text Amendment, which would
13 be the only means of allowing the current parking to continue.

14
15 Mr. Smith stated that the applicant agrees with the Staff Report
16 recommending a temporary conditional use, adding that they would
17 even be amenable to agreeing to a period of time that is less than the
18 recommended ten years, if necessary. He emphasized that the key ele-
19 ment is that it is only applicable to properties that are located within
20 $\frac{1}{4}$ mile of a Corridor, such as SW Tualatin Valley Highway, adding
21 that other conditions within the Development Code would apply to any
22 conditional use, requiring a Conditional Use Permit following approval
23 of the Text Amendment, in order to allow a use such as this to
24 continue. He pointed out that he does not dispute the intent of this
25 particular zoning designation, adding that it is certainly not consistent
26 with the applicant's proposed use. Observing that this involves an
27 existing use that is already there, he expressed his opinion that both
28 *Saturn of Beaverton* and *Hertzog Meier* would also have to make other
29 arrangements with regard to their vehicle storage. He pointed out
30 that this would most likely involve parking their vehicles throughout
31 the neighborhood and in front of people's driveways, on side streets,
32 and even on sidewalks. He mentioned that both of these automobile
33 dealerships are completely supportive of this proposal, adding that
34 while he had hoped their representatives would be available to help
35 facilitate this effort, unfortunately, both representatives are currently
36 out of town and not available at this time. He emphasized that both of
37 these dealerships strongly support this proposal, which provides them
38 with an option for the storage of their excess inventory, which makes it
39 easier to satisfy their customers. Concluding, he pointed out that the
40 applicant would not have submitted this proposal if any other option
41 were available, and offered to respond to questions.

42
43 Expressing his appreciation for Mr. Smith's comments, Commissioner
44 Maks emphasized that although this proposal involves an existing use,

1 this was not an existing use when the designation for this area was
2 adopted, adding that in essence, this existing use is not supposed to be
3 there.

4
5 Mr. Smith concurred with Commissioner Maks' observations, noting
6 that this is also the position of the Code Enforcement Officer.

7
8 Commissioner Maks stated that in all honesty, when this language
9 was adopted with regard to these zoning districts, every attempt had
10 been made to respect what was on the ground, as well as the rights of
11 the property owners and residents of the area. He asked if Mr. Smith
12 could provide any argument with regard to why he should consider this
13 amendment, emphasizing that this change would affect multiple
14 parcels throughout the City of Beaverton in order to accommodate a
15 single property that has a use that is not supposed to be there. He
16 suggested that it might be necessary to review the land use
17 authorizations with regard to these other automobile dealerships,
18 emphasizing that these authorizations all include restrictions that do
19 not allow for parking on streets and sidewalks.
20

21 **MACE MONROE**, Co-owner of *Precision Holdings, LLC*, discussed the
22 history of the site, observing that in 1979, Nadine Smith, a former
23 employee of the City of Beaverton, had suggested the purchase of this
24 property located to the north in order to provide an area on which to
25 park their vehicles. He expressed his opinion that other uses in the
26 area are interesting when considering the current situation, observing
27 that these uses include U-Haul storage, an equipment rental yard, and
28 a tire store/mechanic shop. He pointed out that a high-rise is not
29 feasible in this area, and expressed his objection to having this
30 property vacant for ten years. He discussed the prior use of the
31 property, specifically *Loy Clark Pipeline*, emphasizing that this had
32 involved the storage of heavy equipment, adding that this had been an
33 eyesore. He noted that when the property had been purchased, the
34 applicant had been aware of the impending zone change, adding that
35 there had been an understanding that they would be allowed to lease
36 this property to the automobile dealers in the interim so that they
37 would be able to park their vehicles off of the street. He mentioned
38 that because these automobile dealerships have grown significantly
39 since that time, adequate parking is not available, adding that this
40 does not address the needs of the public. He expressed his opinion that
41 paving a bad idea, noting that problems would be created because
42 pavement would not promote absorption of the water. He pointed out
43 that he is very concerned with the effect of cheap rent upon an area,

1 adding that he does not believe it really provides an asset. Concluding,
2 he offered to respond to questions.

3
4 Chairman Barnard pointed out that the applicant would not be
5 permitted to park in this graveled lot, even if the Text Amendment is
6 approved, as amended by staff, adding that parking would only be
7 permitted within an existing paved parking lot.

8
9 Mr. Snyder interjected that the Memorandum involves staff's
10 recommendation for consideration, adding that the Planning
11 Commission and City Council both have the option to consider and
12 amend this Condition of Approval.

13
14 Commissioner Voytilla provided clarification both to staff and the
15 applicant with regard to Chairman Barnard's comment, emphasizing
16 that adoption of this Text Amendment is a moot point, because the
17 applicant would still not be able to park on this property.

18
19 Mr. Monroe pointed out that the applicant had not been aware of
20 staff's recommendation previously.

21
22 Mr. Smith stated that he has seen the Memorandum, adding that this
23 is the basis for his previous comment indicating that the applicant is
24 not in agreement with that particular provision with regard to
25 pavement. He suggested revising staff's recommendation, specifically
26 to allow this use to occur on existing vacant lots, adding that this
27 would address concerns with regard to the potential for the demolition
28 of single-family dwellings to make way for parking lots. He expressed
29 his opinion that an aerial survey would not be necessary, adding that
30 the burden of proof would be upon the applicant to demonstrate that
31 the property was vacant.

32
33 **PUBLIC TESTIMONY:**

34
35 **DONALD DELZER** referred to the South Tektronix Station
36 Community Report, observing that the proposed text amendment
37 meets none of the eight planning goals established by this report, as
38 follows:

- 39
40 1. Develop a plan that accommodates future population growth in
41 the South Tektronix Neighborhood;
42 2. Place moderate and high-density housing and employment
43 within walking distance of transit;

3. Develop a plan which incorporates and supports the goals and visions of the property owners, inhabitants, businesses, and local leaders;
4. Mix residential and existing employment uses with shopping opportunities and public facilities;
5. Provide multiple and direct street connections to transit stops and other local destinations;
6. Design for pedestrians without excluding the automobile;
7. Provide green spaces and park space; and
8. Develop an urban design framework, which encourages public and private agreements, including funding projects that meet neighborhood goals.

Referring to page 9 of the Staff Report, Mr. Delzer emphasized that this particular proposed Text Amendment does not meet these italicized goals. Observing that he resides on SW Tualaway Avenue, he stated that all three dealerships have acquired extra property for expansion, adding that this has resulted in the demolition of several existing homes in the area and that he is concerned that this development will continue. Concluding, he requested that the Planning Commission deny the application, and offered to respond to questions.

AARON WELLBORN, who submitted a yellow testimony card in support of the application, was no longer available to testify.

LINDA PETERSEN, who submitted a yellow testimony card in support of the application, was no longer available to testify.

APPLICANT REBUTTAL:

Mr. Smith indicated that the applicant does not intend to offer any rebuttal at this time.

Mr. Snyder referred to Mr. Smith's comments with regard to the Code Enforcement issue, noting that staff had made a conscious decision not to address this issue because it is a separate issue and it did not want to prejudice members of the Planning Commission in any way with regard to this application. He explained that because the applicant had introduced this information, staff does concur that a Code Enforcement issue does exist. He reiterated that the Text Amendment application is not property specific, adding that therefore, the Conditions of Approval being considered at this time are intended to address the potential impact upon the Station Community – High Density Residential zoning district in its entirety. He pointed out that

1 this means that the Conditions of Approval might not be entirely
2 compatible with the needs of this specific applicant. He referred to the
3 comment with regard to aerial surveys, noting that this is only an
4 option, adding that the burden of proof with regard to conformance
5 does ultimately rest upon the applicant.

6
7 Assistant City Attorney Ted Naemura indicated that he had no
8 comments with regard to this application.
9

10 The public portion of the Public Hearing was closed.
11

12 Observing that they are appreciative of the applicant's dilemma,
13 Commissioners Johansen, Pogue, Voytilla, and Bliss expressed their
14 opinion that the application does not meet applicable criteria and does
15 not comply with the intent and purpose established for this zoning
16 designation, adding that they do not support this proposal.
17

18 Observing that he has been familiar with this particular area for 31
19 years, Commissioner Maks stated that Mr. Monroe is correct with
20 regard to the storage of equipment rental in that area, as well as
21 automobile dealerships, adding that this was all incorporated with
22 respect to the uses, property owners and their rights. He emphasized
23 that there had been a great deal of compromise with regard to this
24 document, adding that while he agrees with Mr. Monroe's statement
25 that this area would not be converted to that vision or transition
26 within five, ten, or even fifteen years, it would take even longer to
27 accomplish this goal if we move backwards, and that this is a
28 significant move backwards. He agreed that this application does not
29 meet the purpose statement of Section 20.20.20, the policies of the
30 Urban Growth Management Plan 3.07.210, or 3.07.130, or
31 Comprehensive Plan Policies 3.5.1.A, 3.8.2.A, or 3.8.2.B, adding that
32 he is unable to support this proposal.
33

34 Chairman Barnard expressed his lack of support of the application,
35 adding that this is based upon 2021 and Goal 2, in addition to those
36 referenced by Commissioner Maks.
37

38 Commissioner Maks **MOVED** and Commissioner Voytilla
39 **SECONDED** a motion to **DENY** TA-2002-0006 – Precision Holdings,
40 LLP Chapter 20 Text Amendments, noting that after reviewing the
41 Staff Report dated December 4, 2002, and additional Memorandums
42 distributed this evening and public testimony, this application does not
43 meet Urban Growth Management Functional Plan 3.07.210, and

1 3.07.130, Comprehensive Policy Plan Policies 3.5.1.A, 3.8.2.A, and
2 3.8.2.B, and the purpose statement of Section 20.20.20.1.

3
4 Motion **CARRIED**, by the following vote:

5
6 **AYES:** Barnard, Bliss, Johansen, Maks, Pogue and
7 Voytilla.

8 **NAYS:** None.

9 **ABSTAIN:** None.

10 **ABSENT:** Winter.

11
12 8:51 p.m. to 8:58 p.m. – break.

13
14 8:59 p.m. – Mr. Snyder left.

15
16 **NEW BUSINESS:**

17
18 **PUBLIC HEARINGS:**

19
20 **A. CPA 2002-0015/ZMA 2002-0026 - 8888 SW CANYON ROAD**
21 **LAND USE MAP AMENDMENT AND ZONING MAP**
22 **AMENDMENT**

23 This proposal is to amend the Land Use Map in the Comprehensive
24 Plan and Zoning Map to designate four lots being annexed into the
25 City, by a separate process, Corridor (COR) on the Land Use Map and
26 to designate two of the lots (8888 SW Canyon Road and 8891 SW
27 Cashmur Lane) General Commercial (GC) and the remaining two lots
28 (8881 and 8885 SW Cashmur Lane) Office Commercial (OC) on the
29 Zoning Map in place of the current Washington County designation of
30 General Commercial (GC) and Office Commercial (OC) respectively.
31 These are Beaverton's most similar land use and zoning designations
32 to those that Washington County has placed on these properties.
33 These lots are identified on tax map 1S111DA as lots 07800, 07900,
34 08800 and 08202.

35
36 Commissioners Voytilla, Johansen, Bliss, Pogue, and Maks and
37 Chairman Barnard all indicated that they had visited the site and had
38 no contact with any individual(s) with regard to this application.

39
40 Senior Planner Alan Whitworth presented the Staff Report and
41 corrected an error on page one, as follows: "CPA 2002-0014~~5~~**5**".
42 Concluding, he offered to respond to questions.
43

1 On question, Mr. Whitworth advised Commissioner Voytilla that while
2 all affected addressed are included within the Staff Report, not all are
3 referenced within the title, which is for descriptive purposes for future
4 reference.

5

6 **PUBLIC TESTIMONY:**

7

8 No member of the public testified with regard to this application.

9

10 Staff had no further comments with regard to this application.

11

12 Assistant City Attorney Ted Naemura indicated that he had no
13 comments with regard to this application.

14

15 Commissioners Maks, Pogue, Bliss, Johansen, and Voytilla, and
16 Chairman Barnard all expressed their support of the proposal as
17 meeting applicable approval criteria.

18

19 Commissioner Pogue **MOVED** and Commissioner Bliss **SECONDED**
20 a motion to **APPROVE** CPA 2002-0015 – 8888 SW Canyon Road Land
21 Use Map Amendment, based upon the testimony, reports and exhibits,
22 and new evidence presented during the Public Hearing on the matter,
23 and upon the background facts, findings and conclusions found in the
24 Staff Report dated December 17, 2002.

25

26 Motion **CARRIED**, by the following vote:

27

28 **AYES:** Bernard, Bliss, Johansen, Maks, Pogue, and Voytilla.

29

NAYS: None

30

ABSTAIN: None.

31

ABSENT: Winter.

32

33 Commissioner Pogue **MOVED** and Commissioner Bliss **SECONDED**
34 a motion to **APPROVE** ZMA 2002-0026 – 8888 SW Canyon Road
35 Zoning Map Amendment, based upon the testimony, reports and
36 exhibits, and new evidence presented during the Public Hearing on the
37 matter, and upon the background facts, findings and conclusions found
38 in the Staff Report dated December 17, 2002.

39

40 Motion **CARRIED**, by the following vote:

41

42 **AYES:** Bernard, Bliss, Johansen, Maks, Pogue, and Voytilla.

43

NAYS: None.

44

ABSTAIN: None.

45

ABSENT: Winter.

1 **B. CU 2002-0033 - KRISPY KREME 24-HOUR OPERATION**

2 The proposed development located at 16415 NW Cornell Road has
3 submitted a Conditional Use Permit to operate 24-hours. This
4 application is in conjunction with a submitted Design Review 3
5 application to construct a fast food restaurant.

6
7 Observing that he is a staff member with the Beaverton School District
8 in the Facilities Department, Commissioner Voytilla pointed out that
9 the district had submitted an application for an outright use near this
10 particular site, which was denied by the City Council, has been
11 appealed and is still pending. Noting that this proposal actually
12 involves a greater volume of traffic than that proposed by the district
13 and that he does not feel that he is able to review the application
14 without the potential for bias, he recused himself from participating on
15 this issue.

16
17 9:05 p.m. – Mr. Whitworth left.

18
19 Observing that they were all familiar with the area, Commissioners
20 Johansen, Maks, Pogue, and Bliss and Chairman Barnard indicated
21 that they had visited the site and had no contact with any individual(s)
22 with regard to this application.

23
24 Associate Planner Tyler Ryerson presented the Staff Report and briefly
25 described the application, which involves a specific request for a 24-
26 hour operation, adding that the Board of Design Review would review
27 the application for Design Review on January 9, 2003. He emphasized
28 that tonight's hearing involves the impacts that would occur between
29 the extended hours of 10:00 p.m. and 7:00 a.m. Referring to a letter
30 from Robert Fisher, Assistant Superintendent of the Beaverton School
31 District, dated November 19, 2002, he noted that this letter was
32 submitted on behalf of both the Design Review and Conditional Use
33 applications. He discussed the history of the site, access, internal site
34 circulation, street improvements, sidewalks, and specific requirements
35 with regard to both Washington County and the City of Beaverton. He
36 added that there is a shared access with *NW Rugs*. Concluding, he
37 reiterated that tonight's hearing is for the purpose of addressing the
38 extended hours of operation, staff recommend approval subject to
39 certain Conditions of Approval, and offered to respond to questions.

40
41 Commissioner Bliss requested clarification with regard to several
42 different counts with regard to parking spaces for the proposal,
43 observing that the Staff Report references 57 parking spaces, the plan

1 indicates 56 parking spaces, and the architect's letter proposes both 63
2 parking spaces and 57 parking spaces.

3

4 Mr. Ryerson pointed out that this inconsistency is most likely due to
5 several changes that have occurred throughout this project, including
6 an additional handicapped parking space required by the Building
7 Division. He assured Commissioner Bliss that the proposed 56
8 parking spaces proposed meets the minimum requirement and does
9 not exceed the maximum allowed.

10

11 Referring to page 12 of the Staff Report, specifically the statement that
12 staff recommends that the Planning Commission adopt Condition of
13 approval No. 1, establishing that approval of the extended hours of
14 operation is valid for this use and upon approval by the Board of
15 Design Review, Commissioner Johansen questioned whether this is
16 something that has only been implemented recently.

17

18 Mr. Ryerson assured Commissioner Johansen that this is a standard
19 condition.

20

21 Referring to page 22 of the Staff Report, Commissioner Johansen
22 requested clarification of the hours of 5:30 p.m. to 12:00 p.m.

23

24 Mr. Ryerson advised Commissioner Johansen that this should be
25 revised to reflect 5:30 a.m. to 12:00 p.m.

26

27 Commissioner Johansen discussed the Neighborhood Meeting,
28 observing that based upon the letter from Mr. Kamin, which was
29 received on November 18, 2002, it does appear that the neighborhood
30 is supportive of the 24-hour operation.

31

32 Commissioner Maks requested clarification whether this 24-hour
33 operation for a restaurant would run with the land if approved.

34

35 Mr. Ryerson informed Commissioner Maks that this use is associated
36 only with this specific application, Krispy Kreme Restaurant and
37 would not be applicable for a 24-hour operation for any future
38 restaurant.

39

40 Observing that he often disagrees with Transportation Planner Don
41 Gustafson with regard to the scope and other issues related to Traffic
42 Reports, Commissioner Maks commended him for his efforts on behalf
43 of this proposal.

44

1 **APPLICANT:**

2
3 **TIM JEWETT**, representing the applicant, concurred with the
4 recommendations and Conditions of Approval proposed by staff, noted
5 that the final count for parking is 56 parking spaces, and offered to
6 respond to questions.

7
8 **MICHAEL SWENSON**, Traffic Engineer representing the applicant,
9 introduced himself and offered to respond to questions.

10
11 Commissioner Maks referred to page 13 of the applicant's Traffic
12 Report, observing that the trip generation does not appear to be based
13 upon standard ITE rates.

14
15 Mr. Swenson pointed out that subsequent to the preparation of this
16 Traffic Report, more information had become available with regard to
17 four stores located in California. He noted that because these four
18 stores had been considered stable, the information is considered more
19 applicable, and involves stronger data that is compatible with the
20 information utilized in this specific situation.

21
22 Commissioner Maks explained that the data he had reviewed had been
23 based upon two stores that are located in Florida.

24
25 On question, Mr. Swanson indicated that the stores that were studied
26 operate on a 24-hour basis.

27
28 Referring to Figure 6 of the Traffic Report, Commissioner Maks noted
29 that this illustration indicates both 30% and 70%, with regard to the
30 direction vehicles would travel when leaving the site. He requested
31 information with regard to who would access the site and from which
32 direction.

33
34 Mr. Swenson advised Commissioner Maks that 30% of the traffic
35 would come from the east, while 70% would come from the west.

36
37 Commissioner Maks referred to page 19 of the applicant's Traffic
38 Report, which addresses site distance, requested clarification with
39 regard to the 85th percentile speed on NW Cornell Road.

40
41 Observing that the applicant had not obtained information with regard
42 to the 85th percentile, Mr. Swenson informed Commissioner Maks that
43 they had based their report upon the posted speed limit.
44

1 Referring to additional information submitted with regard to the
2 Issaquah store, Commissioner Maks requested clarification with
3 regard to the number of transactions involved within that one-week
4 period of time.
5

6 Mr. Swenson stated that Monday through Friday, there is an average
7 amount of 1,700 daily transactions involving the Issaquah store,
8 emphasizing that each transaction does not necessarily involve two
9 vehicular trips.
10

11 Commissioner Pogue questioned the number of employees that would
12 actually be on site between the hours of 10:00 p.m. and 7:00 a.m.
13

14 **KEVIN BRUZZONE**, representing the applicant, pointed out that
15 while the number of employees at any given time is site specific, in the
16 case of the Issaquah store, which is their highest volume operation in
17 the nation, there is an average of ten to 15 employees during this time
18 period on any given night. He pointed out that during an opening,
19 which is the first month of operation, the number of employees could
20 potentially exceed this amount, depending upon several issues,
21 including their proficiency in the position.
22

23 Commissioner Maks requested clarification with regard to the size of
24 the Issaquah store.
25

26 Mr. Bruzzone advised Commissioner Maks that the Issaquah store is
27 4,250 square feet in size, adding that the proposed Beaverton store,
28 including exterior dimension changes, would be approximately 4,570
29 square feet in size.
30

31 Referring to page 14 of the Transportation Analysis, Commissioner
32 Maks noted that while the anticipated daily vehicular trips generated
33 by the site is 2,550, the Issaquah site generates approximately 3,400
34 daily vehicular trips, and questioned how a store with basically the
35 same square footage would generate approximately 30% fewer
36 vehicular trips.
37

38 Reiterating that the Issaquah store generates the highest use, Mr.
39 Bruzzone clarified that these predictions involve the average rates
40 from four stores, observing that they are based upon an average time
41 frame of one week.
42

43 Emphasizing that all of the transportation issues are based upon
44 conflicting data, Commissioner Maks suggested that the applicant

1 review this data prior to the Design Review application the following
2 evening.

3
4 Mr. Jewett pointed out that because it is one of three stores located in
5 Washington (Issaquah, Spokane, and Burlington), as opposed to four in
6 California, the Issaquah store basically serves the greater northwest.

7
8 Commissioner Maks questioned the number of stores located in
9 Oregon.

10
11 Mr. Jewett informed Commissioner Maks that Oregon has
12 approximately 2.3 million people in the greater trade area, as opposed
13 to Washington's approximately 4 million people.

14
15 **PUBLIC TESTIMONY:**

16
17 **PETER PAPADOPULOS**, representing the owner and developer,
18 offer his support of both the proposal and staff's recommendations,
19 observing that in response to Commissioner Maks' question, there will
20 be ten stores located in Oregon.

21
22 **JAN YOUNGQUIST**, representing the Beaverton School District,
23 expressed concern with the applicant's Traffic Analysis, noting that it
24 does not provide adequate consideration with regard to the current and
25 future traffic along NW Cornell Road. She referred to the district's
26 application that is pending with the Land Use Board of Appeals
27 (LUBA), adding that she would like to clarify some major issues on
28 pages 6 and 7 of the Staff Report, and emphasized that the use of the
29 proposed Transportation Center is an allowed use and was not denied
30 by the City of Beaverton. She clarified that the application involved an
31 expansion of the facility, pointing out that the issue is not whether to
32 allow school buses to park there, but the number of school buses that
33 can be located on the site. Emphasizing that the school district has no
34 issue with Krispy Kreme or their manner of conducting business, she
35 explained that it is necessary to make certain that the Traffic Analysis
36 fully takes into consideration the allowed use of the Transportation
37 Center, particularly that there will be school buses operating from the
38 site and out onto NW Cornell Road and that the most appropriate
39 information with regard to a decision is available.

40
41 Commissioner Maks stated that with all due respect, he accepts staff's
42 comment indicating that this use was not approved, adding that he
43 does understand that the appeal is still pending. Emphasizing that
44 this application involves only the extended hours of operation from

1 10:00 p.m. to 7:00 a.m., he noted that most of the school buses would be
2 parked during these hours.

3
4 Ms. Youngquist expressed concern with a potential conflict at 7:00 a.m.

5
6 Commissioner Maks pointed out that even without the extended hours
7 of operation, Krispy Kreme would still be allowed to operate at 7:00
8 a.m., adding that these concerns might be more appropriately
9 addressed through the Board of Design Review process.

10
11 **CHUCK RICHARDS** stated that his issue does not actually involve
12 the extended hours of operation, adding that he has concerns with
13 regard to the existing traffic situation at that location, and expressed
14 his opinion that an additional 2,500 daily vehicular trips would only
15 add to the problem.

16
17 **MICHAEL ROBINSON** commented that as the attorney representing
18 the applicant, in response to the testimony offered by Ms. Youngquist,
19 technically, LUBA is reviewing the City of Beaverton's decision, rather
20 than the application. He pointed out that even if this decision is
21 reversed, there is no guarantee that this application will ever be
22 approved. Referring to Mr. Richards' comments, he noted that the
23 applicant is required to meet certain criteria prior to the issuance of
24 the Occupancy Permit.

25
26 Expressing his appreciation of the testimony that had been provided,
27 Mr. Ryerson reiterated that tonight's issue involves only the extended
28 hours of operation with regard to this permitted use.

29
30 Mr. Naemura indicated that he had no comments with regard to this
31 proposal.

32
33 The public portion of the Public Hearing was closed.

34
35 Commissioners Maks, Johansen, Bliss and Pogue, and Chairman
36 Barnard expressed their opinion that the application meets applicable
37 criteria, adding that they would support a motion for approval.

38
39 Commissioner Johansen **MOVED** and Commissioner Maks
40 **SECONDED** a motion to **APPROVE** CU 2002-0033 – Krispy Kreme
41 24-Hour Operation Conditional Use, based upon the testimony, reports
42 and exhibits, and new evidence presented during the Public Hearing
43 on the matter, and upon the background facts, findings and

1 conclusions found in the Staff Report dated January 1, 2003, as
2 revised, including Conditions of Approval Nos. 1 through 3.

3
4 Motion **CARRIED**, by the following vote:

5
6 **AYES:** Bernard, Bliss, Johansen, Maks, and Pogue.
7 **NAYS:** None
8 **ABSTAIN:** Voytilla.
9 **ABSENT:** Winter.

10
11 **APPROVAL OF MINUTES:**

12
13 Minutes of the meeting of November 13, 2002, submitted.
14 Commissioner Bliss requested that line 13 of page 9 be amended, as
15 follows: "...facilities are ~~not~~ aesthetically pleasing..." Commissioner
16 Bliss requested that line 17 of page 10 be amended, as follows:
17 "...nothing ~~that~~ will be hit." Commissioner Maks **MOVED** and
18 Commissioner Voytilla **SECONDED** a motion that the minutes be
19 approved, as amended.

20
21 Motion **CARRIED**, unanimously, with the exception of Commissioner
22 Johansen, who abstained from voting on this issue.

23
24 **MISCELLANEOUS BUSINESS:**

25
26 The meeting adjourned at 9:52 p.m.